

## **2005 DRAFTING REQUEST**

### **Bill**

Received: **02/02/2006**

Received By: **mkunkel**

Wanted: **As time permits**

Identical to LRB:

For: **Mark Miller (608) 266-9170**

By/Representing: **Brittney (intern)**

This file may be shown to any legislator: **NO**

Drafter: **mkunkel**

May Contact:

Addl. Drafters:

Subject: **Fin. Inst. - WCA**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Miller@legis.state.wi.us**

Carbon copy (CC:) to:

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### **Pre Topic:**

No specific pre topic given

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### **Topic:**

Late payments for consumer credit transactions

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### **Instructions:**

See Attached

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### **Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/1	mkunkel 02/10/2006	wjackson 02/14/2006	rschluet 02/15/2006	_____	sbasford 02/15/2006	mbarman 02/27/2006	

FE Sent For:

 none

<END>

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/?	mkunkel						

FE Sent For:

  
<END>

For Sen. Miller (Brittney - intern)

(If a company (merchant?) under WCA  
doesn't offer 2 wks grace  
period for loan or credit under  
WCA [so don't include sale],

then merchant may not impose  
fee, penalty, charge additional  
i for payment  
post marked on due date

note "grace period" = due date  
+ 2 wks

- 4576



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-4566/1

MDK:1/...

WLJ

0 - note

2/17

2005 BILL

LPS: I apologize  
if the hyphens  
in the analysis are  
in fact hyphens.  
They look like  
en dashes to me. WLJ

Gen

1 AN ACT ...; relating to: late payment charges for consumer credit transactions.

*Analysis by the Legislative Reference Bureau*

Under current law, the Wisconsin Consumer Act (WCA) regulates credit transactions that are entered into for personal, family, or household purposes and in which the amount financed is \$25,000 or less. Different requirements apply, depending on whether or not the transaction is an open-end credit plan. An "open-end credit plan" is defined as a plan that allows a customer to make purchases or obtain loans directly from the creditor, or indirectly by use of a credit card, check or other device, and that meets other requirements. For an open-end credit plan, current law allows a creditor and customer to agree to any late payment charge. For a consumer credit transaction that is not an open-end credit plan, current law allows the creditor and customer to agree to a delinquency charge that applies if payment is not made in full before the 10th day after its scheduled or deferred due date.

For open-end credit plans, this bill allows a creditor to impose a late payment charge only under the following circumstances: If a creditor gives a customer a 14-day grace period, the creditor may impose a late payment charge only if the payment is not received on or before the 14th day after the payment is due. If a creditor does not give a customer a 14-day grace period, the creditor may impose a late payment charge only if the customer makes a payment after the payment's due date. For a payment that is made by mail, the postmark date constitutes the date the payment is made. Therefore, if a creditor does not give a 14-day grace period, and the customer's payment is postmarked on or before the due date, the creditor may not impose a late payment charge.

For a consumer credit transaction that is not an open-end credit plan, the bill changes current law to allow a creditor and customer to agree to a delinquency

**BILL**

charge that applies if payment is not made in full before the 14th day after its scheduled or deferred due date.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1       **SECTION 1.** 422.202 (2m) (a) of the statutes is amended to read:

2       422.202 (2m) (a) A creditor may charge, collect and receive other fees and  
3 charges, in addition to the finance charge authorized under s. 422.201, that are  
4 agreed upon by the creditor and the customer. These other fees and charges may  
5 include periodic membership fees, cash advance fees, charges for exceeding a  
6 designated credit limit, ~~charges for late payments~~, charges for providing copies of  
7 documents and, charges for the return of a dishonored check or other payment  
8 instrument, and, except as provided in par. (am), charges for late payments.

History: 1971 c. 239; 1973 c. 3; 1975 c. 362, 371, 372, 375, 407, 422; 1979 c. 89; 1981 c. 45, 314; 1983 a. 389; 1985 a. 29, 256; 1987 a. 399; 1993 a. 71, 150; 1995 a. 328, 329; 1997 a. 252; 1999 a. 31.

9       **SECTION 2.** 422.202 (2m) (am) of the statutes is created to read:

10       422.202 (2m) (am) If a creditor gives a customer a 14-day grace period for  
11 payments received on or before the 14th day after a payment's due date, the creditor  
12 may impose a late payment charge only if a payment is received after the 14th day  
13 after the payment's due date. If a creditor does not give a customer such a grace  
14 period, the creditor may impose a late payment charge only if a payment is made  
15 after the payment's due date. If a payment is made by mail, the date of the postmark  
16 constitutes the date that the payment is made.

17       **SECTION 3.** 422.203 (1) of the statutes is amended to read:

18       422.203 (1) With respect to a consumer credit transaction other than one  
19 pursuant to an open-end credit plan, the parties may agree to a delinquency charge  
20 on any installment not paid in full on or before the ~~10th~~ 14th day after its scheduled

**BILL**

1 or deferred due date in an amount not to exceed \$10 or 5% of the unpaid amount of  
2 the installment, whichever is less.

History: 1971 c. 239; 1979 c. 10, 168; 1981 c. 45; 1991 a. 39; 1997 a. 302.

3 **SECTION 4.** 422.203 (2) of the statutes is amended to read:

4 422.203 (2) No delinquency charge may be collected on an installment which  
5 is paid in full on or before the 10th 14th day after its scheduled or deferred due date  
6 even though an earlier maturing installment or a delinquency charge on an earlier  
7 installment may not have been paid in full. For purposes of this subsection payments  
8 are applied first to current installments and then to delinquent installments.

History: 1971 c. 239; 1979 c. 10, 168; 1981 c. 45; 1991 a. 39; 1997 a. 302. ✓

9 **SECTION 5.** 422.415 (2) (intro.) of the statutes is amended to read:

10 422.415 (2) (intro.) A change that is adverse to the interests of the customer  
11 with respect to outstanding balances or that imposes or alters a charge permitted  
12 under s. 422.202 (2m), except for a charge for late payment, may be made if any of  
13 the following conditions is met:

History: 1971 c. 239; 1979 c. 168; 1981 c. 45 s. 51; 1993 a. 150; 1995 a. 328.

14 **SECTION 6. Initial applicability.**

15 (1) This act first applies to consumer credit transactions that are entered into,  
16 extended, modified, or renewed on the effective date of this subsection. ✓

17 (END)

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-4566/1dn

MDK:./.....

WJ

Sen. Miller:

As explained in the analysis, open-end credit plans and plans that are not open-end credit plans are subject to different requirements under the Wisconsin Consumer Act. For plans that are not open-end credit plans, current law requires a 10-day grace period. I assume that you don't want to get rid of the mandatory grace period, so I changed it to a 14-day grace period. Is that okay? As for open-end credit plans, I made the changes you requested.

Mark D. Kunkel  
Senior Legislative Attorney  
Phone: (608) 266-0131  
E-mail: mark.kunkel@legis.state.wi.us



**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-4566/1dn  
MDK:wlj:rs

February 15, 2006

Sen. Miller:

As explained in the analysis, open-end credit plans and plans that are not open-end credit plans are subject to different requirements under the Wisconsin Consumer Act. For plans that are not open-end credit plans, current law requires a ten-day grace period. I assume that you don't want to get rid of the mandatory grace period, so I changed it to a 14-day grace period. Is that okay? As for open-end credit plans, I made the changes you requested.

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Phone: (608) 266-0131  
E-mail: mark.kunkel@legis.state.wi.us

**Northrop, Lori**

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**From:** Bray, Brittany  
**Sent:** Monday, February 27, 2006 3:57 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 05-4566/1 Topic: Late payments for consumer credit transactions

Please Jacket LRB 05-4566/1 for the SENATE.